

Appl. No. 10/646,239
Attorney Docket No.: 2002B117/2
Amdt. dated May 18, 2006
Reply to Office Action of May 12, 2006

REMARKS/ARGUMENTS

This reply is intended as a full and complete response to the Final Office Action dated January 5, 2006, and the Advisory Action dated April 13, 2006. Claims 56-83 are pending in the application and stand rejected. Applicant has added new claims 84-111 to more clearly recite aspects of the invention. Entry of the foregoing amendment and reconsideration of the claims is respectfully requested.

Claims 74-80 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Lue et al. (US 6,255,426) hereafter "Lue." The Examiner states that "because the film of Lue has the exact same composition and is made by the same process, the film inherently has the same natural draw ratio and tensile stress values at the same elongation values, because if the composition is physically the same it must have the same properties."

Applicant has amended base claim 74, obviating the rejection. In particular, Applicant has included the limitation that at least one layer includes one or more tackifiers. Lue does not teach, show or suggest a stretch film comprising one or more tackifiers, as recited in claims 56-83 and the new claims 84-111. Therefore, withdrawal of the rejection and allowance of the claims is respectfully requested.

As stated in the published specification (Ohlsson, US 2004/0048019 A1) at paragraph [0002], the present invention is directed to polyethylene stretch films. The term "stretch films" refers to a monolayer or multilayer film capable of stretching and applying a restoring force. See, Ohlsson at paragraph [0187]. The actual films, whether monolayer or multilayer, can have different overall properties depending upon the additives used, the polymers used, and the number and characteristics of different film layers. See, Id. at paragraph [0195]. For stretch film applications, tackifier is used in one or more layers to provide a cling force. See, Id. at paragraph [0188]. Therefore, stretch films that include tackifiers have different overall properties than films without, and films without do not inherently exhibit the same overall properties as the films that do include tackifier, especially the properties of natural draw ratio, tensile stress at second yield and tensile stress at the natural draw ratio. Furthermore, there is no guarantee that films without tackifier have a positive yield plateau slope large enough to absorb typical variations in film thickness uniformity without tiger striping.

Appl. No. 10/646,239
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The claimed film provides a combination of a large natural draw ratio, a large tensile stress at second yield, large tensile stress at the natural draw ratio, and a positive yield plateau slope large enough to absorb typical variations in film thickness uniformity without tiger striping. See, Id. at paragraph [0007]. It has been surprisingly found that films of the claimed invention exhibit those properties without suffering from local deformation leading to break, hole formation, tiger striping, or other defects. Id. at paragraph [0170]. Films of the claimed invention also show higher holding force than conventional films of the same film thickness. Id. Example 5 and Figures 2A and 2B show objective evidence of this conclusion.

As mentioned, Lue does not teach, show or suggest a stretch film comprising one or more tackifiers. Lue also does not teach, show or suggest a film having a particular natural draw ratio, and tensile stress at separate elongation values, as noted by the Examiner. Therefore, Lue does not teach, show or suggest the claimed invention. Accordingly, withdrawal of the rejection and allowance of the claims is respectfully requested.

Claims 74-80 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Lue et al. in view of Wong et al. (US 6,358,457) hereafter "Wong." Here, the Examiner admits that Lue fails to teach a film having a particular natural draw ratio, and tensile stress at separate elongation values. Yet, the Examiner asserts that "Wong teach that the natural stretch ratio is determined by factors such as the polymer composition, morphology caused by the process of forming the film."

Applicant respectfully traverses the rejection. The Examiner's rejection is nothing more than an "obvious to try" standard which is not a proper basis for a § 103 obviousness type rejection. The Examiner is kindly reminded that obviousness is tested by what combined teachings of prior art references would have suggested to those of ordinary skill in the art, not by whether particular combination of elements from such references might have been "obvious to try." In re Fine (CA FC) 5 USPQ2d 1596 (1/26/1988). An invention is merely "obvious to try" if the prior art gives either no indication of which parameters are critical or no direction as to which of many possible choices is likely to be successful. Merck & Co. Inc. v. Biocraft Laboratories Inc., 10 USPQ2d 1843 (Fed. Cir. 1989).

Here, the Examiner argues that it would have been obvious to modify the teaching of Lue by playing with "factors such as the polymer composition, morphology caused by the process of

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forming the film and the like, and temperature and rate of stretching" as mentioned in Wong. To the contrary, Wong makes no mention of stretch films. Wong also makes no mention of a film having a natural draw ratio of at least 250%, a tensile stress at the natural draw ratio of at least 22 MPa, and a tensile stress at second yield of at least 12 MPa, as recited in every claim. Further, Wong makes no mention of the criticality and provides no direction to arrive at a stretch film comprising a tackifier and having a combination of a large natural draw ratio, a large tensile stress at second yield and at the natural draw ratio, and a positive yield plateau slope large enough to absorb typical variations in film thickness uniformity without tiger striping. Therefore, the combined teachings of Wong and Lue would not have suggested the claimed invention to those of ordinary skill in the art. Withdrawal of the rejection and allowance of the claims is respectfully requested.

Furthermore, as stated above and as stated in the Applicant's own specification, it has been surprisingly found that films of the claimed invention exhibit improved properties, such as applicability over a wide range of stretch ratios without suffering from local deformation leading to break, hole formation, tiger striping, or other defects. Also stated above and in the Applicant's own specification, the actual films, whether monolayer or multilayer, can have different overall properties depending upon the additives used, polymers used, and the number and characteristics of different film layers, etc. The criticality or direction of the additives used and the number and characteristics of different film layers is not taught or suggested by Wong. Further, Wong makes no mention of stretch films where cling force is important. Therefore, a combination of Lue and Wong does not motivate or suggest the claimed invention. Withdrawal of the rejection and allowance of the claims is respectfully requested.

Claims 56-73 and 81-83 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Lue alone or in combination with Wong in view of Takahashi et al. (EP 982 362) hereafter "Takahashi." The Examiner states that "Lue alone or in combination with Wong et al teach all of the limitations of claims 56 as shown above with regard to claim 74, except that the multilayer stretch film comprises a surface layer on either side of the polyethylene copolymer containing layer." The Examiner then asserts that "Takahashi et al teach that it is well known that packaging films are formed from polyethylene copolymers as monolayer films or multilayer films."

Appl. No. 10/646,239
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Applicant respectfully traverses the rejection on the grounds presented above. Particularly, a combination of Lue and Wong is improper and a combination of the teachings of Lue and Wong does not teach, show or suggest the claimed invention. Takashahi merely teaches that multilayer films are possible. As such, Takashahi does not remedy the deficiencies of Lue and Wong. Therefore, a combination of those references does not motivate or suggest the claimed invention. Withdrawal of the rejection and allowance of the claims is respectfully requested.

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CONCLUSION

Having addressed all issues set out in the office action, Applicant respectfully submits that the pending claims are now in condition for allowance. Applicant invites the Examiner to telephone the undersigned attorney if there are any issues outstanding which have not been addressed to the Examiner's satisfaction. A petition for extension of time for filing this response is attached; however, in the event that petition becomes separated from this Response, the Commissioner is hereby authorized to charge counsel's Deposit Account No. 05-1712, for any fees, including extension of time fees or excess claim fees, required to make this response timely and acceptable to the Office.

Respectfully submitted,

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Date

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